

**Attorney Debt Reset, Inc.**

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**UNITED STATES BANKRUPTCY COURT**

**EASTERN DISTRICT OF CALIFORNIA**

**SACRAMENTO DIVISION**

In re:

Michael Jeffrey Richwine and,

Mary Elizabeth Richwine

Debtors.

Case No.: 2011-39917

DCN: ADR-001

Chapter 7

**DEBTORS' MOTION TO COMPEL  
TRUSTEE TO ABANDON CERTAIN  
ASSETS OF THE BANKRUPTCY ESTATE  
AND FOR AUTHORITY TO SELL  
CERTAIN REAL PROPERTIES**

Date: January 25<sup>th</sup>, 2012

Time: 10:00 AM

Place: 501 I St., 6<sup>th</sup> Fl  
Courtroom 34,  
Sacramento, CA 95814

Judge: Hon. Robert S. Bardwil

**DEBTOR'S MOTION TO COMPEL TRUSTEE TO ABANDON CERTAIN ASSETS OF  
THE BANKRUPTCY ESTATE AND FOR AUTHORITY TO SELL CERTAIN REAL  
PROPERTIES**

**INTRODUCTION**

Debtors hereby move the Court pursuant to 11 U.S.C.  
§554(b) for an Order compelling the Trustee to abandon certain

1 assets of the bankruptcy estate on the basis that said  
2 properties have inconsequential value and benefit to the estate.  
3 Namely the debtors wish to abandon the following assets: Single  
4 Family Residence located at 9140 Moondancer Circle, Roseville,  
5 CA 95747, Investment Property located at 984 Wind Flower Road,  
6 Beaumont, CA 92223, and their membership interests in the LLC  
7 Upstream Properties. Further, the debtors pray for an order  
8 authorizing them to sell certain real properties described in  
9 this motion.

#### 10 **STATEMENT OF FACTS**

- 12 1. Debtors filed their chapter 7 bankruptcy petition, in  
13 good faith, on or around August 15, 2011.
- 14 2. Debtors received their bankruptcy discharge on or  
15 around November 21, 2011.
- 16 3. Despite the debtors discharge, their bankruptcy estate  
17 remains open as the Trustee attempts to administer  
18 certain un-exempt assets.
- 19 4. The debtors wish to short sell certain real estate  
20 properties which are currently property of the  
21 bankruptcy estate.
- 22 5. Specifically the debtors wish to sell the following  
23 properties: Single Family Residence located at 9140  
24 Moondancer Circle, Roseville, CA 95747 ("Moondancer"),  
25 Investment Property located at 984 Wind Flower Road,

1           Beaumont, CA 92223, ("Wind Flower"), Investment  
2           Property located at 1795 Trail Creek Way, Reno NV 89532  
3           ("Trail Creek"), and Investment Property located at  
4           Waipouli Beach Resort, 4-820 Kuhoi Hgwy. Unit G205,  
5           Kapau, Kauai, HI, ("Waipouli").

6       6.   The Moondancer property is believed to be valued at or  
7           around \$275,900 and is encumbered by the following  
8           debts: 1<sup>st</sup> Deed of Trust held by Wells Fargo Home  
9           Mortgage in the approximate amount of \$260,000, and a  
10          2<sup>nd</sup> Deed of Trust held by Bank of America in the  
11          approximate amount of \$156,011.

12       7.   The Wind Flower property is believed to be valued at or  
13           around \$142,700, and is encumbered by the following  
14           debts: 1<sup>st</sup> Deed of Trust held by Wells Fargo Bank in  
15           the approximate amount of \$222,270.

16       8.   The Trail Creek and Waipouli properties are owned by  
17           the LLC: Upstream Properties, of which the Debtors  
18           possess a limited membership interest, (approximately  
19           1/6).

20       9.   The only other asset of the this LLC, other than the  
21           aforementioned properties, is a bank account that had  
22           an approximate balance of \$3512.00 on the Chapter 7  
23           petition filing date.

1        10. It is believed that the total value of assets of the  
2        LLC is no more than \$652,812 and the total liabilities  
3        of said LLC are approximately \$820,415.

4  
5                    **REQUEST FOR RELIEF AND ARGUMENT**  
6

7 11 U.S.C. §554(b) provides as follows:

8        ON request of a party in interest after notice and a  
9        hearing, the court may order the trustee to abandon any  
10       property of the estate that is burdensome to the estate or  
11       that is of inconsequential value or benefit to the estate.

12       The Debtors wish to have abandoned from the bankruptcy  
13       estate the Moondancer, and Wind Flower properties, as well as  
14       their membership interests in the LLC, Upstream Properties, so  
15       they may attempt to short sell these properties. Both the  
16       Moondancer and Wind Flower properties are underwater and possess  
17       no equity. Further, the debtors limited membership interest in  
18       the LLC, Upstream Properties, possesses no monetary value  
19       because the liabilities of the LLC greatly exceed the assets of  
20       the LLC.

21       Thus, because there is no equity or value to the above  
22       described properties, there is no value to the bankruptcy  
23       estate. Therefore, this court should order these assets  
24       abandoned from the bankruptcy estate, pursuant to 11 U.S.C  
25       §554(b) as: 1) The debtors are an interested party making this

1 request for abandonment, 2) There is no value in these assets to  
2 the bankruptcy estate, & 3) Any party asserting otherwise will  
3 have an opportunity to present their opposition at the hearing.  
4

5 WHEREFORE, the Debtors pray for the following order:

6 1. The properties located at 9140 Moondancer Circle,  
7 Roseville, CA 95747, and 984 Wind Flower Road, Beaumont,  
8 CA 92223 be abandoned from the bankruptcy estate.

9 2. The debtors membership interests in the LLC Upstream  
10 Properties be abandoned from the bankruptcy estate.

11 3. For an order authorizing the debtors to sell the  
12 following properties:

13 a. 9140 Moondancer Circle, Roseville, CA 95747,

14 b. 984 Wind Flower Road, Beaumont, CA 92223

15 c. 1795 Trail Creek Way, Reno NV 89532

16 d. Waipouli Beach Resort, 4-820 Kuhoi Hgwy. Unit G205,  
17 Kapau, Kauai, HI  
18

19 Date: January 6, 2012  
20

21 /s/ Jeremy G. Winter

22 Jeremy G. Winter

23 Attorney for Debtors  
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